IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 2084 of 2004

Between:

V.Sitamma, W/o.V.S.R.A.V.Prasad, Clerk Illaparru PACS Ilaparru, Nandivada Mandal, Krishna District

..... PETITIONER

AND

1 The commissioner for Cooperation and Registrar of Coop. societies, Government of Andhra Pradesh, Hyderabad.
2 The District Cooperataive Officer, Krishna District at Machilipatnam.
3 The Divisional Cooperative Officer, Gudivada, Krishna District.
4 The Ilaparru PACS Ilaparru, Nandivada Mandal Krishna District rep.by its Chairman/PIC

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the impugned action of the respondents 1 to 3 in issuing directions for terminating the service of the petitioner and consequential action of the 4th respondent society in issuing proceedings dated 24.1.2004 for terminating the service of the petitioner as highly illegal, arbitrary and violative of Art.14 of the Constitution of India.

Counsel for the Petitioner:MR.G.V.SHIVAJI

Counsel for the Respondent Nos. 1 to 3: The G.P. for Cooperation

Counsel for the Respondent No.4 : MR.B.ADINARAYANA RAO

The Court made the following :

ORDER:

The brief facts of the case are that the 4th respondent Society passed a resolution to remove the petitioner from service by paying one month salary on the ground that his appointment was made subsequent to Act 2 of A.P. (Regulation of Appointments to Public Services and Rationalization of Staff Pattern and Pay Structure) Act, 1994(for short 'Act 2 of 94).

In similar circumstances, I have taken a view that if the appointment of any employee of the Primary Agricultural Cooperative Society is contrary to the approved staffing pattern under Section 116 (c) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'), then only such of those appointments shall be treated irregular and their

services can be removed/retrenched/terminated. Merely because any appointment is made subsequent to Act 2 of 94, it cannot be said that the said appointment is contrary to the provisions of Section 116 (c) of the Act.

Accordingly, the writ petition is disposed of directing the 4th respondent to review its order dated 24.1.2004 and pass appropriate orders in accordance with the provisions of Section 116 (c)(1) of the Act and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. No costs.

cvm 15.9.2004

To,

1 The commissioner for Cooperation and Registrar of Coop. societies, Government of Andhra Pradesh, Hyderabad.
2 The District Cooperataive Officer, Krishna District at Machilipatnam.
3 The Divisional Cooperative Officer, Gudivada, Krishna District.
4 The Chairman/PIC, Ilaparru, Nandivada Mandal Krishna District.

5 2 CCs to G.P. for Cooperation, High Court of A.P., Hyderabad (OUT).

6 2 CD copies.